

**REMARKS**

The attached substitute sequence listing is being filed to correct the reference of sequence identifiers in the specification and the sequence listing. The specification refers to the BRCA1(omi2) nucleotide sequence as SEQ ID NO: 3 when in fact, the BRCA1(omi2) nucleotide sequence was disclosed in the as-filed sequence listing as SEQ ID NO: 5. Applicants have submitted a substitute sequence listing in which the BRCA1(omi2) nucleotide sequence is SEQ ID NO: 3 as referred to in the specification. The corresponding amino acid sequences (SEQ ID NO: 4 and 6) have also been corrected in the substitute sequence listing.

Applicants request reconsideration and reexamination of this application and the timely allowance of the pending claims. Applicants respectfully submit that no prohibited new matter has been introduced by the amendments. Written description support for the amendments can be found throughout the specification and original claims.

**Summary of Final Office Action**

1. The restriction requirement was maintained.
2. Claims 28 to 48 were objected to due to informalities as allegedly encompassing a non-elected subject matter.
3. Claim 28 was objected to due to informalities
4. Claims 29 to 33 and 35 to 48 were objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.
5. The disclosure was objected to as containing an embedded hyper link and/or other form of browser-executable code.
6. Claims 28, 34 and 42 to 48 were rejected under 35 U.S.C. 112 (first paragraph) as allegedly not meeting the written description requirement.
7. Claims 28 to 48 were rejected under 35 U.S.C. 112 (first paragraph) as allegedly not complying with the enablement requirement.
8. Claims 44 to 48 were rejected under 35 U.S.C. 112 (first paragraph) as allegedly not providing enablement for a host cell and/or method of producing the polypeptide, wherein the host cell is *in vivo*.
9. Claims 28-48 were rejected under 35 U.S.C. 112 (second paragraph) as allegedly being indefinite.

10. Claims 28, 34, 42-48 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Shattuck-Eidens *et al.* (U.S. Patent 5,693,473).

**Response to objections to claims and specification**

Applicants have amended the specification to delete the hyperlinks to overcome the objection to the specification. Applicants have cancelled claims 28 to 48 without prejudice or disclaimer, therefore the objections to these claims is moot.

**Rejection under 35 U.S.C. 112 (first paragraph)**

The Office Action rejected claims 28, 34 and 42 to 48 under 35 U.S.C. 112 (first paragraph) as allegedly not meeting the written description requirement. Applicants have cancelled these claims without prejudice or disclaimer, therefore the rejection is moot. In view of the new claims, Applicants submit that the specification discloses sufficient written description for an isolated nucleic acid molecule encoding a BRCA1 protein comprising the amino acid sequence of SEQ ID NO: 4 and methods for producing a protein comprising SEQ ID NO: 4.

The Office Action also rejected claims 28 to 48 under 35 U.S.C. 112 (first paragraph) as containing subject matter that is not commensurate with the scope of enablement. Without acquiescing to the merits of the rejection, Applicants have cancelled these claims, therefore the rejection is moot. In view of the new claims, however, Applicants submit that the specification provides sufficient enablement for an isolated nucleic acid molecule encoding a BRCA1 protein comprising the amino acid sequence of SEQ ID NO: 4 and methods for producing a protein comprising SEQ ID NO: 4.

**Rejection under 35 U.S.C. 112 (first paragraph)**

Claim 28 was rejected under 35 U.S.C. 112 (second paragraph) as allegedly being indefinite. Applicants have cancelled this claim without prejudice or disclaimer and the rejection is therefore moot.

**Rejection under 35 U.S.C. 102(e)**

Claims 28, 34, 42-48 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent 5,693,473. Without acquiescing to the merit of the rejection, Applicants have cancelled these claims rendering this rejection moot. Applicants further submit that the cited reference does not disclose nor suggest all of the limitations of the new claims.

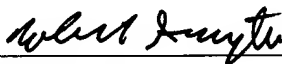
**Conclusion**

Applicants respectfully request reconsideration of the subject application in view of the amendments to the specification and claims. It is respectfully submitted that this application is now in condition for allowance. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is requested to contact the Applicants' undersigned representative.

If there are any fees due in connection with the filing of this amendment, please charge the fees to our Deposit Account No. 50-310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: **November 3, 2003**  
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Respectfully submitted  
**Morgan, Lewis & Bockius LLP**

  
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